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HOW TO DO LEGISLATIVE ANALYSIS
PRACTICAL GUIDELINES FOR
COUNTY DEPARTMENT ANALYSTS

INTERGOVERNMENTAL RELATIONS DIVISION
CHIEF ADMINISTRATIVE OFFICE
LOS ANGELES COUNTY

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INTRODUCTION

The addressees of this paper are the analysts in the county departments whose job it is to analyze state and federal legislation. The paper is intended as a practical technician's manual for the analyst, not as a statement of county policies. Such references to county policy as appear in this manual are subordinate to its purpose as a handbook. Their intent is to make explicit for the analyst the overall purposes which his application of technical expertise should serve.

INTRODUCTION

The purpose of this paper is to present a new method for the determination of the rate of reaction between a solid and a liquid. The method is based on the measurement of the change in the concentration of the solid phase during the reaction. The method is simple and accurate and can be applied to a wide range of reactions. The results of the experiments are presented in the following sections.

CHAPTER I

BASICS

The purpose of this chapter is to tell you, the analyst, some of the basic methods with which to approach the task of analyzing legislative proposals.

1. KNOW YOUR LEGAL BIBLIOGRAPHY

You should get familiar with the system by which bills and acts of the legislature are arranged and codified. Chapter II, Legal Bibliography, gives you this information. This knowledge is very important because most of the bills you will have to analyze are amendments to existing statutes. Often, you can understand the amendments only after you have put them into their proper context within existing collections of statute (law books). Items 4 and 5 of Chapter II will show how to apply this to the legal code books you will most often use in your analyses.

2. KNOW THE LINES OF AUTHORITY AND RESPONSIBILITY (Chain of command).

Read and study Chapter III, Chain of Command, until you know the place occupied in the chain of command by all the players. Remember, in all legislative analysis, the bottom line is always the answer to the following questions:

-- First, how will it affect your department (or Los Angeles County)?

-- Second, how will it affect California (state level)?

It is important to understand the law itself. It is even more important to understand what the law will do to us, what we will have to change in our present practices in order to comply with it.

As an analyst, you may not have enough knowledge of program detail to analyze, without help, the impact of all bills. You will have to get input from others. Therefore, you have to formulate specific questions, because the question will tell you whom you have to contact for input.

To help you in analysis, you should always approach any specific provision of a bill with two questions:

- a. Who in your department is responsible for the program affected by the bill? Make this question very specific. That is, locate the specific section in your department and, if you can, even the individual person who is responsible for program implementation.

Sometimes, the level affected will be a section of a state department. If the matter is important enough, you may want to get input from the state, especially if the law presents the state with new options where their decision will affect Los Angeles County. In a matter of interpretation, do not assume Los Angeles County and the state will always agree.

- b. Does the bill say "thou shalt" or "thou mayest"? That is, is it mandatory or enabling?

A mandate will usually have an easily predictable effect on Los Angeles County even if it is in a federal bill directed at the state. This is because the state has no option but to comply. If the mandate affects a county administered program, we will then have to make program changes to comply.

If the provision is enabling, the situation is more complex, because you now have to analyze, not the direct consequences of the provision, but rather the list of options it creates for the state and/or the county and the consequences of each option. Also, it is important to localize specifically who has the options created by the enabling provision:

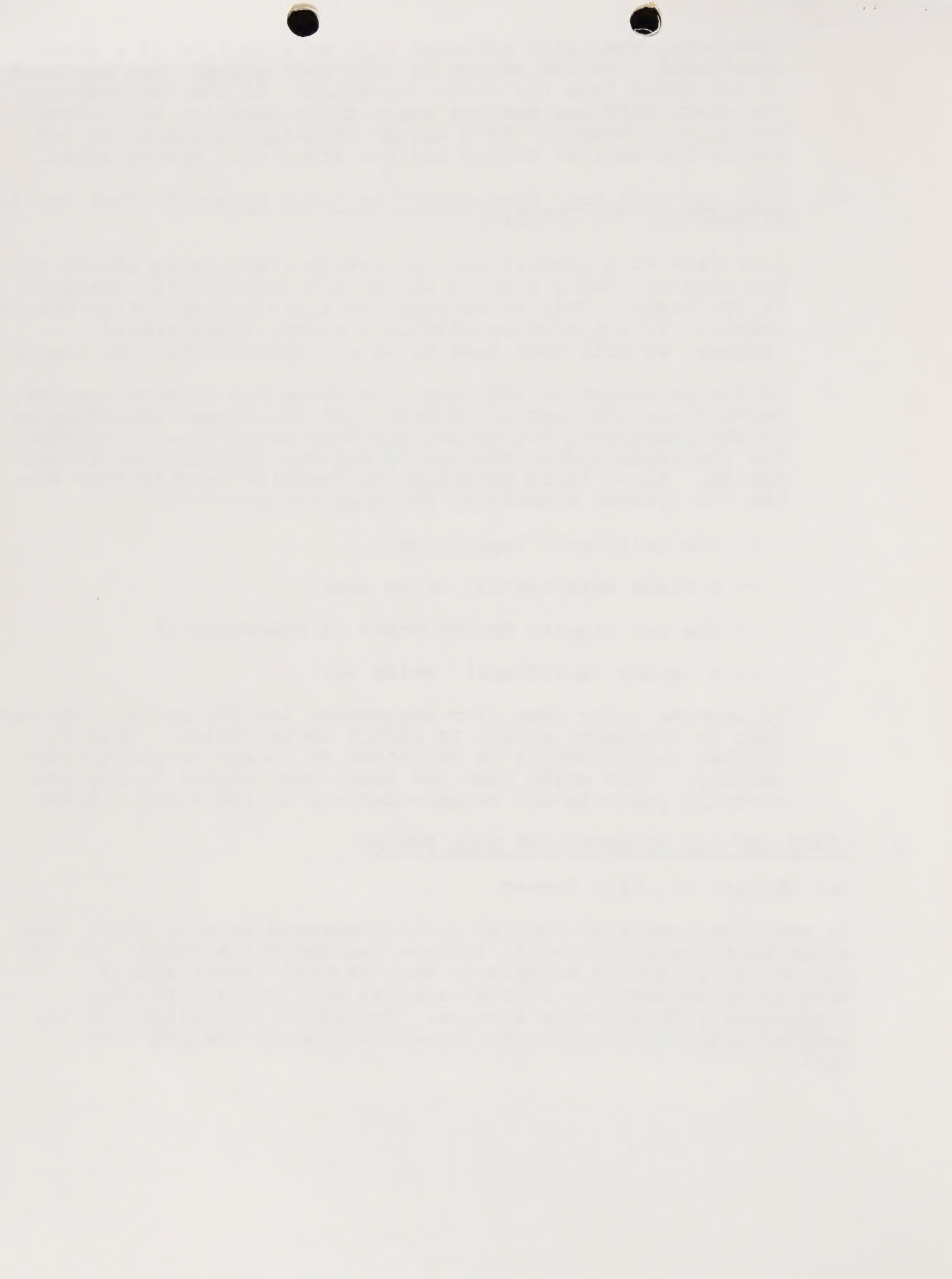
- the California legislature?
- a state department? which one?
- the Los Angeles County Board of Supervisors?
- a county department? which one?

If someone other than your department has the option, you may want to recommend action to affect their choice. This is another reason why it is important to locate responsibility exactly. Much staff time and paper gets wasted in letters carrying protests and recommendations to the wrong address.

3. LEARN AND PAY ATTENTION TO BILL FORMAT

See Chapter IV, Bill Format.

In practice, you will have to analyze amended federal bills less often than you will have to analyze amended state bills. If you get an assignment to analyze an amended bill, there should usually be an analysis of the original bill on file in your department's legislative section. Therefore, you will normally need to analyze only how the amendments change the previous bill.



4. DO NOT RELY ON ANALYSES AND SUMMARIES DONE BY OTHERS

It is a good idea first to summarize and analyze a bill independently, and only then to read what others have written. Be especially cautious of analyses done by others, just as others are well advised to be cautious of your analyses. The reason for this advice is not lack of competence, but rather difference in specialized interest or point of view. You will normally analyze a bill primarily from the point of view of a bill's impact on your department, or your division or section within your department. Others will do the same. What is important for one may be unimportant for the other. This means that other analysts may be silent about some aspects of a bill which should be important to you, and which you should comment on.

This approach works for the system as a whole because your department's legislative section (if your department is large enough to have one) coordinates the input from the different parts of your department, and the CAO coordinates the analyses from the different departments. For you, as an analyst, it means you have to do your own independent analysis.

5. LOOK FOR DOLLAR SIGNS

Many bills have a predictable dollar impact upon either your department or Los Angeles County as a whole. Unless you are in a budget section, you may not be responsible for computing the dollar amount. You can, however, learn to recognize when a bill carries a financial impact even if you cannot compute the amount of that impact. You can also learn to predict the direction of that impact, this is, cost increase or cost saving for your department or the county. Sometimes, you may be able to get input from pertinent program sections which will help in cost computations, for example, probable number of staff hours per month which a new procedure would require. You should mention these things in your analysis and work together with a budget person or suggest a budget analysis.

To decide whether a bill has a dollar sign attached to it, look for the following indicators:

- a. Does the bill make an appropriation for potential grants to a county department for demonstration projects or for any other purposes? Is there a requirement for a county match? What is the matching rate? In the case of a federal bill, are there potential grants to the state for which your department could qualify as a quasi-state agency (because of the state-supervised county-administered structure of many programs in California)? In such a case, would the county then pay the state match, if any? If these questions arise in your mind, and you are not sure of the answers from your reading of the bill, get input from others. This is RULE ONE: Ask the right questions.

- b. Does the bill change the matching rate on an existing co-funded program?
- c. Does the bill contain "start-up" grant money? That is, is there grant money which will last only a limited time, such as one or two years? This can mean county savings at the beginning, and increased county costs later when the grant runs out. If the program has developed a political constituency which supports it, it may become practically impossible to terminate the program later on.
- d. Does the bill mandate new program or clerical procedures on your department? Are such procedures a necessary condition of the grant money? Will conforming with the bill indirectly entail extra staff time, whether time of line operations staff, of clerical staff, or of supervisory or administrative staff? If you suspect this but are not sure, get input from appropriate program or operations staff. (This is part of the reason for a rule stated earlier: Ask the question precisely, what specific section in your department will implement the program described in the bill?)
- e. Does the bill relieve your department of presently existing staff responsibilities? This is the reverse of the previous question.
- f. Will the bill make your department change existing procedures? Here, again, you may need to seek input from appropriate program or operations staff to answer the question whether more or less staff time will be needed to carry out the changed procedures.

If the answer to any of these questions is yes, make as good a general impact statement as you can and recommend a cost analysis if you are not a budget person.

6. LOOK FOR "SB 90 ISSUES" IN STATE BILLS

"SB 90 issue" is a common expression for a series of enactments over the past years which together provide the following:

- If the state passes a law, or promulgates an executive regulation, which mandates a new program upon the counties, the state must pay to the counties the full cost of the new program.
- If the state passes a law, or promulgates an executive regulation, which in any way increases the cost to the counties of operating an existing program, the state must pay to the counties the added cost entailed in compliance.

- If the state, by law or regulation, mandates upon the counties a previously optional program, the state must assume the total costs of the now mandated program.

In analyzing any state bill, you should ask the question: Does the bill do any of the above three things? If you are not sure, get input from the appropriate people. (You are back to an earlier question: What section of your department will carry out the program described in the bill?) It often happens that Los Angeles County believes that a bill does one of the above three things, while the state denies it. Therefore, if your analysis shows that a bill will increase Los Angeles County costs, or mandates a formerly optional program, you should ask the following questions:

- a. Does the bill contain any reference at all to the SB 90 issue? Look toward the end of the bill for a reference to the constitutional or statutory provisions requiring reimbursement of local costs. The bill may be silent on the issue. If it is, you should put that fact in a prominent place in your analysis.
- b. Does the bill contain an "SB 90 disclaimer"? This term means an explicit denial of state responsibility to pay the counties. If the bill contains such a disclaimer, you will usually find it toward the end. There will be a reference to the appropriate provision of law. Look for such language as: "Notwithstanding Section 2231 of the Revenue and Taxation Code, etc., there shall be no reimbursement pursuant to this section because ..." The language will usually give a reason such as cost savings offsetting the new costs. Your department may disagree with this. If you do not know, get input from appropriate persons or recommend a budget analysis.

Often, the state uses the following standard reason as justification: "because the duties...imposed...by this act are such that related costs are incurred as part of...normal procedures." This statement dodges the issue. The issue, and the question you have to ask, is: Will compliance with the bill entail any specific, identifiable new county costs? If so, put your protest against the disclaimer in a prominent place in your analysis. If you do not know, get input or recommend a budget analysis.

- c. Exceptions: The state may legitimately disclaim responsibility for local costs in the following cases:

- Costs arise only because the bill either defines a new crime or changes the definition of an existing crime.

- The local government affected has requested the legislation.
 - The legislation merely implements a federal "mandate" (see Chapter III). In this case, you should make an independent determination whether the mandate in state law goes farther than the federal requirement.
 - The legislation merely implements a court decision.
 - The bill provides for offsetting savings so that no net costs arise for the local agency. If the bill uses this disclaimer, you must confirm independently that such is the case.
 - The bill imposes duties which were expressly included in a statewide ballot measure which the voters approved. If the bill uses this disclaimer, you should independently compare the bill with the ballot measure to confirm that such is the case.
- d. If the answer to the two previous questions is no, then ask:
Does the bill make an appropriation to cover county costs?
Standard language for that is: "The sum of _____ dollars (\$_____) is hereby appropriated....for allocation and disbursement to local agencies pursuant to....to reimburse such agencies for costs incurred by them pursuant to this act." There need not be a specific reference to a code section or to the Constitution.

Sometimes the bill does not contain a specific amount. In such a case, it is very important to provide or get a cost estimate, because typically state staff calls counties for input on dollar costs. If the bill does contain a specific dollar appropriation, you still have to ask: Is the appropriation enough to cover projected expenses? If not, state the amount of the deficiency in your analysis. If you don't know, get input or recommend a budget analysis.

As you have probably guessed, this is a very important issue. Always look for possible unreimbursed costs to Los Angeles County.

7. DO NOT BE AFRAID TO ASK QUESTIONS.

One distinguishing mark of a good legislative analyst is his willingness to seek appropriate input from others. Only sometimes will you have all the knowledge needed to do a thorough and competent analysis unaided. As staff person, you are part of a team of specialists. Each may have something to contribute to your analysis. Be prepared at all times to supplement your own knowledge by getting and using input from other members of the team.

CHAPTER II

LEGAL BIBLIOGRPHY

This chapter tells you what you need to know to find your way around in federal and state statutes and bills.

1. BILLS

- a. The letters tell you what kind of a bill it is and where it originated according to the following systems:

STATE - Assembly: AB - Assembly Bill
 ACA - Assembly Constitutional Amendment
 ACR - Assembly Concurrent Resolution
 AJR - Assembly Joint Resolution
 HR - House Resolution

STATE - Senate: SB - Senate Bill
 SCA - Senate Constitutional Amendment
 SCR - Senate Concurrent Resolution
 SJR - Senate Joint Resolution
 SR - Senate Resolution

FEDERAL - House of Representatives:

 HR - House of Representatives Bill
 HCR - House Concurrent Resolution
 HJR - House Joint Resolution
 H Res - House Resolution

FEDERAL - Senate: S - Senate Bill
 SJR - Senate Joint Resolution
 SCR - Senate Concurrent Resolution
 S Res - Senate Resolution

- b. Bills are numbered consecutively each two-year session of the legislature. There is a separate numerical series for each of the four chambers (two national, two state) and for each type of bill. Every new session the count begins at one again. That is, every session, there will be an HR 1, S 1, AB 1, SB 1, etc. If a bill fails passage, it does not carry over to the next session of the legislature. If it passes, it gets a number as a statute.

2. STATUTES: Acts of the State Legislature: Acts of the California legislature are "chaptered". That is, they are assigned consecutive chapter numbers beginning with number one each year. They are cited as follows: "Chapter --, Statutes of 19--." The 19-- refers to the year of enactment. Most of these chapters consist simply of amendments to existing California codes (see item #4 below).

3. STATUTES: Act of Congress: All Acts of Congress get P.L. (Public Law) numbers such as P.L. 96-203. In these numbers, the first two digits always designate the number of the Congress which enacted the law. The numbers after the hyphen are assigned consecutively, beginning in each Congress anew with the number one. Therefore, P.L. 96-203 means simply the two hundred and third act of the ninety sixth Congress. Each Congress lasts two years.
4. COLLECTIONS OF STATUTE: the California Codes: California statute is collected into codes by subject matter. Examples of California codes are:
 - the Government Code,
 - the Civil Code,
 - the Penal Code,
 - the Education Code, and
 - the Welfare and Institutions Code.

Because the codes are specialized by subject matter, your department probably will be interested in only one or a few of them. These may be available to you as part of a department library.

In order to understand the wording of many bills, you must know how California codes are organized. Often you will see such phrases as:

- "as used in this division"
- "pursuant to this chapter", or
- "the program described in this part".

You can understand these phrases only if you understand the organization of the code in question and use its table of contents.

The Government Code can serve as an example of format for all California codes. You will find in it the following organization:

- The code may be divided into a number of titles. Each title treats a major subject area.
- Each title may be subdivided into a number of divisions. Each division has a subject heading.
- Each division may be subdivided into a number of parts. Each part has a subject heading.
- Each part may be subdivided into chapters, each with a subject heading.
- Each chapter may be subdivided into articles, each with a heading.
- The smallest numbered unit is the section.

- There may be gaps in the chain. For example, a division may break down directly into chapters, without an intervening breakdown into parts. Not all chapters break down into articles. The breakdown into sections is never skipped, however. Every word in the code will belong to a numbered section.

Once you are familiar with this principle, you will easily interpret expressions such as "this article", "this part", or "this chapter". Simply locate the section containing those words in its proper place in the table of contents and you will have the answer.

EXAMPLE: Section 18252 of the Welfare and Institutions Code reads: "The Services authorized by this chapter may be provided.... irrespective of the financial condition of the child..." The table of contents, or the chapter headings in the text, show that Section 18252 is part of Chapter 4 of Part 6 of Division 9 of the code. The chapter heading is Protective Services for Children. The meaning of the language is now clear. Children can get protective services without regard to income.

DEFINITIONS: Sometimes, you will read mysterious looking phrases such as:

- "The department shall....", or
- "The director shall...."

To deal with such language, you will need to familiarize yourself with the definitions used in the codes you use most often, and learn to look up definitions in less used codes.

Each California code will contain an article or chapter, normally close to the beginning, containing definitions of terms as used throughout that code, "unless the context otherwise requires." In addition, there may be special definition sections in which the language explicitly limits the application of the definitions to a specific part of the code ("this title", "this division", "this chapter", etc.). It is important, therefore, always to look at any language you read in a section of law from the point of view of the larger context in which it stands.

EXAMPLE: Section 37541 of the Government Code states: "By ordinance, the legislative body may establish a public museum..." The table of contents shows that this section is in Title 4 of the Government Code. Section 34000, also in Title 4, states: "As used in this title, legislative body means the board of trustees, city council, or other governing body of a city".

5. COLLECTIONS OF FEDERAL STATUTE: As with state bills, most federal bills you will analyze will consist of amendments to existing law. Like California law, federal law also contains such expressions as "this section", "this title", "this part", etc. There is a big difference, however.

In general, it is easier to find your way around in California law. California bills refer almost exclusively to the codes which they amend. Federal bills may refer to either of two systems of law which they amend.

- a. Acts of Congress: Federal bills cite acts of Congress either by P.L. number (see #3 above), or by a "popular name", e.g. Social Security Act, Higher Education Act of 1979, Housing and Community Development Amendments of 1978, etc. The basic breakdown of these acts is:
 - Sections: The basic unit of any federal statute. Sections are designated by Arabic numerals. An act may contain several hundred of them.
 - Title: A grouping of 100 sections, designated by a Roman numeral in capitals (e.g. Title XIX). Titles usually do not actually contain 100 sections, but they always indicate "hundred-blocks". The Roman numeral identifies the hundred-block. Therefore, Title I of any act means Sections 100 to 199 of that act (although Sections 133 to 199, for example, may be nonexistent); Title V means Sections 500 to 599; Title XIX means sections 1900 to 1999, etc.
 - Part: A subdivision of a title, designated by a capital letter. For example, Part A of Title IV of the Social Security Act (abbreviated as Title IV-A) consists of Sections 401 to 410 of that act. Sections 411 to 419 do not exist (now; later amendments may add them). Title IV-B consists of Sections 420 to 426.

The main problem with this reference system is that even the law libraries do not have up-to-date versions of most acts of Congress. Updated copies do not appear in print on any regular basis. Therefore, references to these acts must be translated into references to the second system.

- b. United States Code (USC): Although federal bills only sometimes refer to it as such, all federal law is organized into the United States Code (USC). This code is cited by title number, each title broken down into sections and encompassing a large subject. There are 50 titles. Congress has seen fit to enact some, but only some, of these titles into law. This explains why bills sometimes refer to the USC and sometimes to the individual acts by popular name or P.L. number.

The USC appears in print and is updated annually. Index volumes allow translation from popular names to P.L. numbers into code title and section numbers, but the system is cumbersome.

Departments should try to get up-to-date copies of those acts of Congress which have particular importance for the department, but you cannot normally expect that your department library will have the USC. In most cases, however, a relatively small collection of the most up-to-date available version of the acts of Congress that most affect your department will supply most of your needs for analyzing federal legislation.

CHAPTER III

CHAIN OF COMMAND

In Los Angeles County, we speak of certain programs as being "federally mandated" upon the county. Strictly speaking, this is inaccurate for two reasons:

1. Many "federal mandates" rest upon a state agency which has the option either to administer the program itself or to supervise the local (county) administration of the program. For many federally funded programs, California has chosen the second option. The state agency merely regulates and supervises a locally administered program. As far as Washington is concerned, this is an in-house matter for California. Washington deals only with the regulating state agency because federal law requires that a single state agency either:
 - directly administer the program, or
 - regulate and supervise the local administration of the program and be responsible for it.
2. The principle of divided sovereignty written into the United States Constitution limits the power of Congress directly to mandate programs upon the states. The Constitution does allow the Congress to grant program money to the states with conditions or strings attached. If the states do not accept the conditions, they forego the money. This is the case with many "federally mandated" programs. The federal grants are high enough (often 50% to 90% of total program costs) to motivate the states to accept the conditions. Legally, however, California could terminate such programs. Obviously, this would not always be possible politically. Also, California could, theoretically, operate the programs without federal funds and be free of all federal restrictions. Realistically, however, this is not possible either. Therefore, in real life, the conditions or strings tied to federal money function the same way as would legal mandates. The federal government can and does impose financial sanctions (withdrawing the money or demanding it back) upon the states for non-compliance with the conditions (strings) under which it grants the money.

In this context, you can look at and correctly understand the "chain of command". It consists of three levels: federal, state and county. Each level consists of two sublevels: legislative and executive. The legislature enacts the statute. The executive promulgates implementing and interpreting regulations.

A. LEVEL ONE: FEDERAL

1. The Congress. Only Congress can appropriate federal money. Congress also is the entity with authority to tie strings to that money. For many federally co-funded programs, Congress grants money to the states under stated conditions which generally fall into two categories:
 - Mandates: where the law says that, to get the money, the state shall.... This defines the requirements the state must fulfill.
 - Options (enabling provisions): where the law says that, with the money, the state may.... This sets limitations beyond which the state may not go in using the money. Congress also appropriates money for distribution directly to local governments. In this case, the "mandates" and the enabling provisions rest directly upon the local government.
2. Federal Departments: Through statute, the Congress has designated a specific federal department as the federal regulatory agency for each program and empowered that department to make implementing and interpreting regulations. These, too, are often directed at the states and may be either mandatory or enabling.

B. LEVEL TWO: STATE

1. The State Legislature: Unlike Acts of Congress, California law, enacted by the California State Legislature, is directly binding upon the county as a legal mandate. The county can be sued for failure to comply. As in the case of federal law, provisions may be either mandatory or enabling. Also, they may be directed either:
 - at a state agency primarily and secondarily at the county,
 - or directly at the county.
2. The State Executive: State agencies govern state mandated programs in essentially the same way that federal departments govern federally "mandated" programs. The state agencies relate to the counties in essentially the same way that federal departments relate to the states. Each of these state agencies issues its own regulations binding the counties.

Since the state must comply with federal regulations, the state legislature will convert any new federal "mandates" into state statute or state regulations which legally bind the counties.

NOTE: Federal auditors may hold the county to state law as well as to federal law. They may penalize a California agency if it is out of conformity with California law. This is because one of the strings often tied to the federal money is that the state live up to its own rules.

C. LEVEL THREE: COUNTY

1. Legislative: The Board of Supervisors is the county legislature, and Board motions or orders bind your department as does the County Charter.
2. Executive: Your department is an executive department and its program material consists of manual letters, administrative directives, etc. These are signed by the director or by an assistant director, and bind the personnel of the department. Particularly if your department provides a social program to recipients, much of its administrative material may originate as a direct response to new state legislation. This fact is the key to the importance of legislative analysis.

CHAPTER IV

BILL FORMAT

There are some differences in the format of a typical bill, depending upon whether it is a federal or a state bill.

A. STATE BILLS

1. Heading: The heading
 - a. identifies the bill by letters and number;
 - b. names the Senator(s) or Assemblyperson(s) who authored the bill; and
 - c. carries the date on which the bill was introduced.

2. Amendments:

The original bill contains no writing above the heading.

Once the bill has been amended, the amended versions tell, in capital letters above the heading, on what date(s) and in which chamber(s) the bill was amended.

California uses a system of printing amendments which makes it very easy for the reader to tell what has changed. Most California bills are almost entirely devoted to amendments of the existing California code. The original bill prints amendments as follows:

- Language to be deleted from the code stands in normal print which is lined through in such a way as to remain legible.
- Language which is to remain unchanged appears in normal print.
- New language (to be added) is in italics.

This makes it easy to compare the present code text with the text as it will look if the bill passes.

The first amendment follows essentially the same system, but with a difference. It compares the original bill with the amended bill. Each successive amendment is printed in such a way as to show only the latest change.

1. The first part of the report is devoted to a general survey of the situation in the country.

2. The second part of the report is devoted to a detailed analysis of the situation in the country.

3. The third part of the report is devoted to a detailed analysis of the situation in the country.

4. The fourth part of the report is devoted to a detailed analysis of the situation in the country.

5. The fifth part of the report is devoted to a detailed analysis of the situation in the country.

6. The sixth part of the report is devoted to a detailed analysis of the situation in the country.

7. The seventh part of the report is devoted to a detailed analysis of the situation in the country.

8. The eighth part of the report is devoted to a detailed analysis of the situation in the country.

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10. The tenth part of the report is devoted to a detailed analysis of the situation in the country.

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12. The twelfth part of the report is devoted to a detailed analysis of the situation in the country.

13. The thirteenth part of the report is devoted to a detailed analysis of the situation in the country.

14. The fourteenth part of the report is devoted to a detailed analysis of the situation in the country.

15. The fifteenth part of the report is devoted to a detailed analysis of the situation in the country.

3. Legislative Counsel's Digest: This is a brief summary of the bill. Do not rely on it for your analysis. Legislative Counsel may not be interested in the same aspects of the bill as your department. His summary may remain silent on details that should be very important to your analysis. His summary may also contain errors.
4. Miscellaneous Information: At the end of the digest, the bill will always tell you the following:
 - a. Vote: whether majority or 2/3 vote is needed to pass.
 - b. Appropriation: yes or no, whether the bill contains one or not.
 - c. Fiscal committee: yes or no, whether the bill must be reviewed by that committee or not.
 - d. State-mandated local program: yes or no, whether the bill mandates any programs (involving costs) on the local governments.

B. FEDERAL BILLS

Federal bills are harder to read than state bills for two reasons. They are written in less straightforward language, and they do not print the original text of an amended provision of law. Like the state bills, most federal bills which will come to your attention will be amendments to existing law. In the case of federal bills, however, you will have to get a copy of the law being amended. If you do not do this, you will often not be able to interpret the amendment.

In practice, you will have to analyze amended federal bills much less frequently than you will have to analyze amended state bills.

Written by Jim Evrard,
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Los Angeles County
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March 15, 1983

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